

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

PACIFIC HOSPITALITY LLC, d/b/a LA
QUINTA INN FEDERAL WAY;
SEASONS HOTEL LLC d/b/a BEST
WESTERN TACOMA DOME HOTEL,

Defendants.

CASE NO. C10-5715 BHS

ORDER GRANTING IN PART
AND DENYING IN PART
MOTION TO ISSUE SUBPOENA

This matter comes before the Court on Defendants Pacific Hospitality, LLC d/b/a La Quinta Inn Federal Way and Seasons Hotel LLC d/b/a Best Western Tacoma Dome Hotel's ("Defendants") motion to authorize issuance of subpoena pursuant to RCW 50.13.070. Dkt. 51. The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants in part and denies in part the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On September 30, 2010, the Equal Employment Opportunity Commission ("EEOC") filed a complaint against Defendants alleging violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2, 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. Dkt. 1. Specifically, the

1 EEOC alleges that Defendants' General Manager, Syed Ahmed, subjected female
2 employees to discrimination and a hostile work environment based on the employees'
3 race, sex, and/or religion. *Id.* ¶¶ 7-12.

4 On March 16, 2011, Intervenor Plaintiff Dana Miller ("Miller") filed a complaint
5 against Defendants. Dkt. 12.

6 On September 2, 2011, Intervenor Plaintiff Janelle Sevilla ("Sevilla") filed a
7 complaint against Defendants. Dkt. 16.

8 On April 5, 2012, Defendants filed a motion to authorize issuance of subpoena
9 pursuant to RCW 50.13.070. Dkt. 51. On April 16, 2012, the EEOC responded. Dkt.
10 56. On April 20, 2012, Defendants replied. Dkt. 58.

11 **II. FACTUAL BACKGROUND**

12 Claimant Heather Sawyer ("Sawyer") has testified that she sought unemployment
13 on three occasions, from Best Western Park Center before she worked for Defendants,
14 from Defendants, and from the Days Inn in Federal Way after she worked for the
15 Defendants. Dkt. 52, Declaration of James C. Fowler ("Fowler Decl."), Exh. 1
16 (Deposition of Heather Sawyer) at p. 8. In all three occasions, Sawyer alleges she was in
17 an abusive working environment. *Id.* pp. 12-13, 19-20. At the Best Western, she claims
18 she was "screamed at and belittled at the front desk." *Id.* at p. 12. She claims to have
19 suffered panic attacks from her employment and alleges Defendants actions are the cause
20 of the attacks instead of her other allegedly abusive employers. *Id.* at p. 120.

1 Claimant Caroline McIntyre (“McIntyre”) claims she was wrongly fired from
2 Applebee’s for a false accusation of theft, and prevailed on her argument with the
3 Employment Security office. *Id.*, Exh. 2.

4 Defendants allege that Miller falsified evidence in prior unemployment claims
5 against the Defendants (Dkt. 51 at 2-3) and submitted the Employment Security judge’s
6 finding and conclusions (Fowler Decl., Exh. 3).

7 **III. DISCUSSION**

8 The Washington statute, RCW 50.13.070, requires specific findings to be included
9 in a subpoena directed to the Employment Security Department for production of
10 confidential unemployment compensation records. The statute provides as follows:

11 Information or records deemed private and confidential under this
12 chapter shall be available to parties to judicial or formal administrative
13 proceedings only upon a finding by the presiding officer that the need for
14 the information or records in the proceeding outweighs any reasons for the
15 privacy and confidentiality of the information or records. Information or
16 records deemed private and confidential under this chapter shall not be
17 available in discovery proceedings unless the court in which the action has
18 been filed has made the finding specified above. A judicial or
19 administrative subpoena directed to the employment security department
20 must contain this finding. A subpoena for records or information held by
21 the department may be directed to and served upon any employee of the
22 department, but the department may specify by rule which employee shall
produce the records or information in compliance with the subpoena.

RCW 50.13.070.

19 In this case, Defendants have shown that the need for the records in this
20 proceeding outweighs any need for privacy and confidentiality of the records in question.
21 Sawyer, McIntyre, and Miller have put certain employment histories and experiences at
22 issue that are relevant to the claims in this matter. Defendants should have a fair

1 opportunity to explore any information submitted to the Employment Security office
2 regarding these histories and experiences. Therefore, the Court grants Defendants'
3 motion as to the records of Sawyer, McIntyre, and Miller.

4 With regard to the other claimants listed in the sample subpoena (Dkt. 51-1 at 4-
5 5), Defendants have failed to show a need for these records or for confirmation that
6 records do not exist. Employment Security Department records are entitled to a
7 presumption of confidentiality and Defendants have failed to show that there is a need for
8 "[a]ny and all compensation records" for any other individual. Defendants state that their
9 intent is to confirm that some claimants have not received or applied for compensation.
10 Dkt. 51 at 3. This task, however, may be accomplished via written questions to the
11 department instead of requesting a claimant's entire record with the department.
12 Therefore, the Court denies Defendants' motion as to the remainder of the claimants.

13 IV. ORDER

14 Therefore, it is hereby **ORDERED** that Defendants' motion to authorize issuance
15 of subpoena pursuant to RCW 50.13.070 (Dkt. 51) is **GRANTED in part** and **DENIED**
16 **in part** as stated herein.

17 Dated this 16th day of May, 2012.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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